

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

SB-17-CRM-0054 to 0056
For: Violation of Sec.3(e)
R.A. 3019 as amended

AUGUSTO L. SYJUCO, JR. ET AL.,
Accused.

Present:
Lagos, J., Chairperson
Cruz,*
Mendoza –Arcega, JJ.

Promulgated:

August 1, 2017 *lal*

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RESOLUTION

MENDOZA-ARCEGA, J.:

For resolution is an *Omnibus Motion to: a) Dismiss the Cases for Violation of the Accused's Constitutional Rights to Due Process and to Speedy Disposition of cases, or b) Judicially Determine Probable Cause; and c) Reduce Bail Ad Cautelam With Urgent Prayer to Defer Further Proceedings and the Issuance of Warrants of Arrest* filed by the accused, EDUARDO B. LECCIONES, (herein after, movant), through counsel, dated January 24, 2017. The prosecution filed its *Opposition* thereto on February 15, 2017.

The *Motion to Dismiss* is hinged on the ground that it took more than eleven (11) years for the prosecution to finish its investigation and to file these cases before this Court, which clearly violated his right to speedy disposition of cases and due process.

The movant argues that there was a lapse of eleven years and one month from the time that the fact-finding and preliminary investigation were conducted by the Office of the Ombudsman on December 9, 2005, up until

* Sitting as Special member per Administrative Order No. 025-2017 dated February 1, 2017.

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the case was filed before this Court on January 24, 2017. Thus, his right to due process and speedy disposition of cases has been violated due to inordinate delay.

In denying the same, the prosecution points to the timeline of events involved in these cases. The prosecution denies the allegation of the movant that as of the time the complaint was filed in 2005, movant was already named as respondent. Records disclose that he was not even mentioned as a respondent in the original complaint filed in 2005. It was only on April 15, 2013 when movant became the subject of the fact-finding investigation when the Final Evaluation Report of the Graft Investigation and Prosecution Officer (GIPO) Philip C. Camiguing recommended that the Complaint be upgraded to a criminal case against the principal accused and other co-accused, including movant himself. The prosecution further avers that the movant cannot now claim delay as he himself was responsible for the delay. On March 7, 2014, an Order to file Counter-Affidavit was issued to the accused. Instead of filing his Counter-Affidavit, movant filed a Motion for Extension to File Reply- Affidavit on December 18, 2014 and, thereafter filed his Counter-Affidavit only on February 16, 2015. Further, the prosecution claims that the delay cannot be characterized as “inordinate,” that could lead to dismissal of these cases. Citing the case of *Jacob vs. Sandiganbayan*¹ wherein the Supreme Court reiterated that, while the right of the accused to a speedy trial and disposition is important, the right of the State to pursue criminal cases and in the process, restore people's confidence in the administration of justice, is of paramount importance.

ISSUE

The sole issue before the Court is whether or not the Office of the Ombudsman violated the right of movant to speedy disposition of cases under the Constitution, considering the alleged lapse of more than eleven years before these cases were filed with the Court.

RULING

Article II, Section 16 of the Constitution provides that, *all persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies*. The constitutional right to a speedy disposition of cases is not limited to the accused in criminal proceedings, but extends to all parties in all cases, including civil and administrative cases, and in all proceedings, including judicial and quasi-judicial hearings. Hence, under the Constitution, any party to a case may demand expeditious action from all officials who are tasked with the administration of justice.²

¹ G.R. No. 162206, November 17, 2010.

² Lopez, Jr. vs. Office of the Ombudsman, G.R. No. 140529, September 6, 2001, 364 SCRA 569, 578.

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It bears stressing that although the Constitution guarantees the right to the speedy disposition of cases, it is a flexible concept. Due regard must be given to the facts and circumstances surrounding each case. The right to a speedy disposition, like the right to speedy trial, is deemed violated only when the proceedings are attended by vexatious, capricious, and oppressive delays, or when unjustified postponements of the trial are asked for and secured, or when without cause or justifiable motive, a long period of time is allowed to elapse without the party having his case tried.³ Just like the constitutional guarantee to a speedy trial, speedy disposition of cases is a flexible concept. It is consistent with delays and depends upon the circumstances. What the Constitution prohibits are unreasonable, arbitrary and oppressive delays which render rights nugatory.⁴

In determining whether or not the right to the speedy disposition of cases has been violated, the Supreme Court has laid down the following guidelines: (1) the length of the delay; (2) the reasons for such delay; (3) the assertion or failure to assert such right by the accused; and (4) the prejudice caused by the delay.⁵

This right to a speedy trial is not a mere mathematical computation of the time involved, but a right that is violated, when the proceedings are coupled with a capricious, vexatious and oppressive delay.⁶

Before We take the above-mentioned factors to be considered and discussed, let Us take a look at the comparison of the timelines according to the movant vis-à-vis that of the prosecution:

Timeline according to Movant	Timeline according to the Prosecution
December 9, 2005: Private complaint Mejorada filed a criminal and administrative complaint against principal accused Syjuco for Malversation, Violation of Section 3 (h) of R.A. 3019, and R.A. 6713 before the Deputy Ombudsman for the Visayas.	December 9, 2005: Private complaint Mejorada filed the complaint before the Deputy Ombudsman for the Visayas. February 28, 2006: Joint Evaluation Report was issued referring the matter to the Public Assistance and Corruption Prevention Office

³ Yulo vs. People, G.R. No. 142762, March 4, 2005, 452 SCRA 705.

⁴ Caballero vs. Alfonso, Jr., G.R. No. L-45647, August 21, 1987, 153 SCRA 153, 163.

⁵ Dela Peña vs. Sandiganbayan, G.R. No. 144542, June 29, 2001, 360 SCRA 478, 485; Alvizo vs. Sandiganbayan, G.R. No. 101689, March 17, 1993, 220 SCRA 55, 63-64.

⁶ People vs. Sandiganbayan, et al., G.R. No. 188165, December 11, 2013 citing Dela Peña vs. Sandiganbayan.

<p>April 15, 2013: Graft Investigation and Prosecution Officer (GIPO) submitted a report with the recommendation to upgrade the fact-finding investigation into a formal charge.</p> <p>September 30, 2013: Deputy Ombudsman for the Visayas approved the report.</p> <p>February 13, 2014: Deputy Ombudsman for the Visayas orders the submission of Counter-Affidavit.</p> <p>December 8, 2014: Movant receives the order.</p> <p>February 16, 2015: Movant filed his Counter-Affidavit.</p> <p>April 15, 2016: Deputy Ombudsman for the Visayas issued Resolution</p>	<p>(PACPO) for fact-finding, a request for audit.</p> <p>August 29, 2007: Ombudsman Merceditas Gutierrez approved the report.</p> <p>December 5, 2007 up to November 21, 2012: Investigation period.</p> <p>November 26, 2012: Status Report was issued with Order to conduct further fact finding.</p> <p>April 15, 2013: Final Evaluation Report was submitted to the Ombudsman recommending the upgrade of the complaint to a criminal case against principal accused Syjuco, <u>which now includes movant.</u></p> <p>September 30, 2013: Report was approved by Ombudsman Conchita Morales.</p> <p>March 7, 2014: Order issued directing movant to submit his Counter-Affidavit.</p> <p>December 18, 2014: Movant filed a Motion for Extension to File Reply-Affidavit.</p> <p>February 18, 2015: Movant filed his Counter-Affidavit.</p> <p>April 15, 2016: Resolution issued finding probable cause.</p>
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finding probable cause against movant.	
June 29, 2016: Movant received copy of the Resolution.	June 2, 2016: Ombudsman Conchita Morales approved the Resolution.
July 4, 2016: Movant filed a Motion for Reconsideration.	July 12, 2016: Movant filed his Motion for Reconsideration.
	August 25, 2016: Motion for Reconsideration resolved and submitted to Ombudsman
	October 17, 2016: Ombudsman approved the Resolution.
January 17, 2017: Case filed before the Sandiganbayan.	January 17, 2017: Informations were filed before the Sandiganbayan.

First. The Length of Delay

When private complainant, Manuel Mejorada, filed the case against principal accused, Augusto L. Syjuco, for Malversation, Violation of Section 3(h) of R.A. 3019, and Violation of R.A. 6713 before the Office of the Deputy Ombudsman for Visayas on December 9, 2005, movant was not even a named respondent in the case yet.

Notably, up until April 15, 2013, when the Final Evaluation Report was issued by the Graft Investigation and Prosecution Officer (GIPO) Philip C. Camiguing, which report recommended the upgrade of the complaint or investigation to a criminal case, movant was not even a subject of the investigation. Consequently, the Ombudsman approved the GIPO report on September 30, 2013. Thus, it was only on February 13, 2014 that the Deputy Ombudsman issued an order directing the movant to submit his counter-affidavit.

Instead of filing his counter-affidavit, movant instead filed a Motion for Extension of Time to File his Reply-Affidavit. It was only on February 16, 2015 when he finally filed his Counter-Affidavit. On April 15, 2016, the Ombudsman issued a resolution finding the existence of probable cause. Movant filed a Motion for Reconsideration on July 4, 2016. The Ombudsman, thereafter, denied the motion in its resolution dated August 25, 2016. Ultimately, the Information was filed before this Court on January 17, 2017.

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In sum, the time between the filing of the Informations and the inclusion of movant as an accused is only a total of three years and six months, not eleven years and one month, as erroneously claimed by movant. This now brings us to the next discussion:

Second. As To The Reasons For Delay

Movant claims that the prosecution's delay of almost three (3) years in the conduct of its fact-finding and preliminary investigation, up until the filing of the Informations, was inordinate. What movant ignored was that the delay was caused by the motions he himself filed before the Office of the Ombudsman, particularly, his motion for extension of time and, later, motion for reconsideration.

We cannot gloss over the fact that the movant, instead of filing his Counter-Affidavit immediately upon receipt of the order, asked for extension of time. And even after the issuance of the Resolution finding probable cause, he also filed a Motion for Reconsideration. While We observe that the motions he filed are well-within his rights, arguably, movant cannot now raise the issue of delay, as he, too, was reason for such delay. The attending circumstances present in the instant case at the very least mitigate, if not excuse, the delay on the part of the Ombudsman.

While admitting that it took the prosecution more than ten years from the time of filing of the complaint, until the time when the Informations were filed before this Court, the delay is not inordinate which is characterized by being vexatious, capricious and oppressive. The seeming delay between the period of fact-finding and the preliminary investigation would seem reasonable considering the complexities in the investigation and the need for a thorough and careful review, before the Ombudsman finally filed the Informations. The prosecution claimed that it was not a simple investigation and review. That it involved a grand scheme involving several accused, among them movant; that a thorough, rigid and diligent investigation was necessary before the matter was resolved. And unlike what the Supreme Court cited as a vexatious, capricious and oppressive delay, We find that reason for the delay in these cases was not at all inordinate.

Third. As to the Accused's Assertion of Such Right

While movant properly raised the issue of his right to speedy disposition of cases after what he believes was an inordinate delay on the part of prosecution, he failed to acknowledge that the delay was caused by him. Instead of filing his Counter-Affidavit immediately, he filed it almost one year after he was directed by the Ombudsman. A perusal of the records show that the Order was dated March 7, 2014. While claiming that he did not immediately receive this Order, he instead filed a Motion for Extension of Time. And it was only on February 16, 2015 when he finally filed his Counter-Affidavit. Similarly, on July 12, 2016, he filed a Motion for Reconsideration

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on the Resolution dated April 15, 2016. On August 25, 2016, his Motion for Reconsideration was denied which led to the filing of the Informations herein on January 17, 2017. Movant cannot now claim violation of his right under Section 16, Article 3 of the 1987 Constitution when he himself caused the delay in the proceedings.

Fourth. As to Prejudice Caused by the Delay

The movant now avers that the delay of the Ombudsman caused him prejudice which warrants the dismissal of these cases. He, however, has not shown nor proven the prejudice that he suffered due to the alleged delay. He argues that the case was with the Ombudsman for more than a decade. But what he failed to admit was that his inclusion as accused to the case happened only in 2013 after the GIPO had submitted the Final Report. That while there was a period of more than three years between the Report and the filing of Information, the delay was due to the motions he himself filed. He cannot now claim prejudice when he himself caused the delay.

Applying, therefore, these tests, this Court is not convinced that the delay imputed by the movant is inordinate which warrants the dismissal of the instant cases. While admitting that the Ombudsman took more than three years from the time movant was included as subject of the investigation until the information was filed, this period cannot be considered unreasonable. The attending circumstances are neither capricious, vexatious nor oppressive.

As to the Motion of the accused for Judicial Determination of Probable Cause:

“Probable cause” is defined as the existence of such facts and circumstances as would excite a belief that a crime has been committed and that the person charged is probably guilty of the said crime. Determination of probable cause is either executive or judicial in nature. In the case of *Young vs. People*⁷, the Supreme Court enunciated that:

“Judicial determination of probable cause refers to the prerogative of the judge to ascertain if a warrant of arrest should be issued against the accused. At this stage, the judge makes a preliminary examination of the evidence submitted, and on the strength thereof, and independent from the findings of the public prosecutor, determines the necessity of placing the accused under immediate custody in order not to frustrate the ends of Justice.”

The executive determination of probable cause refers to the duty of the public prosecutor to examine the documents and pieces of evidence submitted to ascertain whether the respondent should be charged before the courts of

⁷ G.R. No. 213910, February 3, 2016.

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law. The executive determination of probable cause concerns itself with whether there is enough evidence to support the filing of the Information.

On the other hand, the judicial determination of probable cause refers to whether or not the Court should issue a warrant of arrest. Under Sec 5 (a) Rule 112 of the Revised Rules of Court:

"the judge shall personally evaluate the resolution of the public prosecutor and the supporting evidence. He may immediately dismiss the case if the evidence on record clearly fails to establish probable cause. If he finds probable cause, he shall issue a warrant of arrest or a commitment order, if the accused has already been arrested pursuant to a warrant issued by the judge who conducted the preliminary investigation or when the complaint or information was filed pursuant to section 6 of this Rule." Clearly, prior to the issuance of a warrant of arrest, the judge must be fully satisfied that there is sufficient proof that the accused is probably guilty of the crimes for which he is charged based on the evidence submitted to him.

Notably, since the judge is already duty bound to determine the existence or non-existence of probable cause for the arrest of the accused immediately upon filing of the information, the filing of a motion for judicial determination of probable cause becomes a mere superfluity, if not a deliberate attempt to cut short the process by asking the judge to weigh in on the evidence without a full-blown trial.

In the instant cases, it is apparent that this Court has already found probable cause as it has already issued a Warrant of Arrest for movant's co-accused. Hence, the motion for determination of probable cause is deemed rendered moot and academic. And while movant alleged that there is no conspiracy involving the other co-accused, this allegation is one that needs a full blown trial and which can be scrutinized only by the presentation of evidence during trial.

As to the Motion to Reduce Bail Ad Cautelam:

Movant alleged that inasmuch as he is now retired from government service and relies merely on his monthly pension, he is unable to post bail of PHP 30,000.00 and moves to reduce the same to PHP 15,000.00. However, the Court finds no definitive reason to grant the same. Other than his allegation that he now merely relies on his pension, movant has not submitted any evidence to support his claim that he is unable to pay the recommended bail.

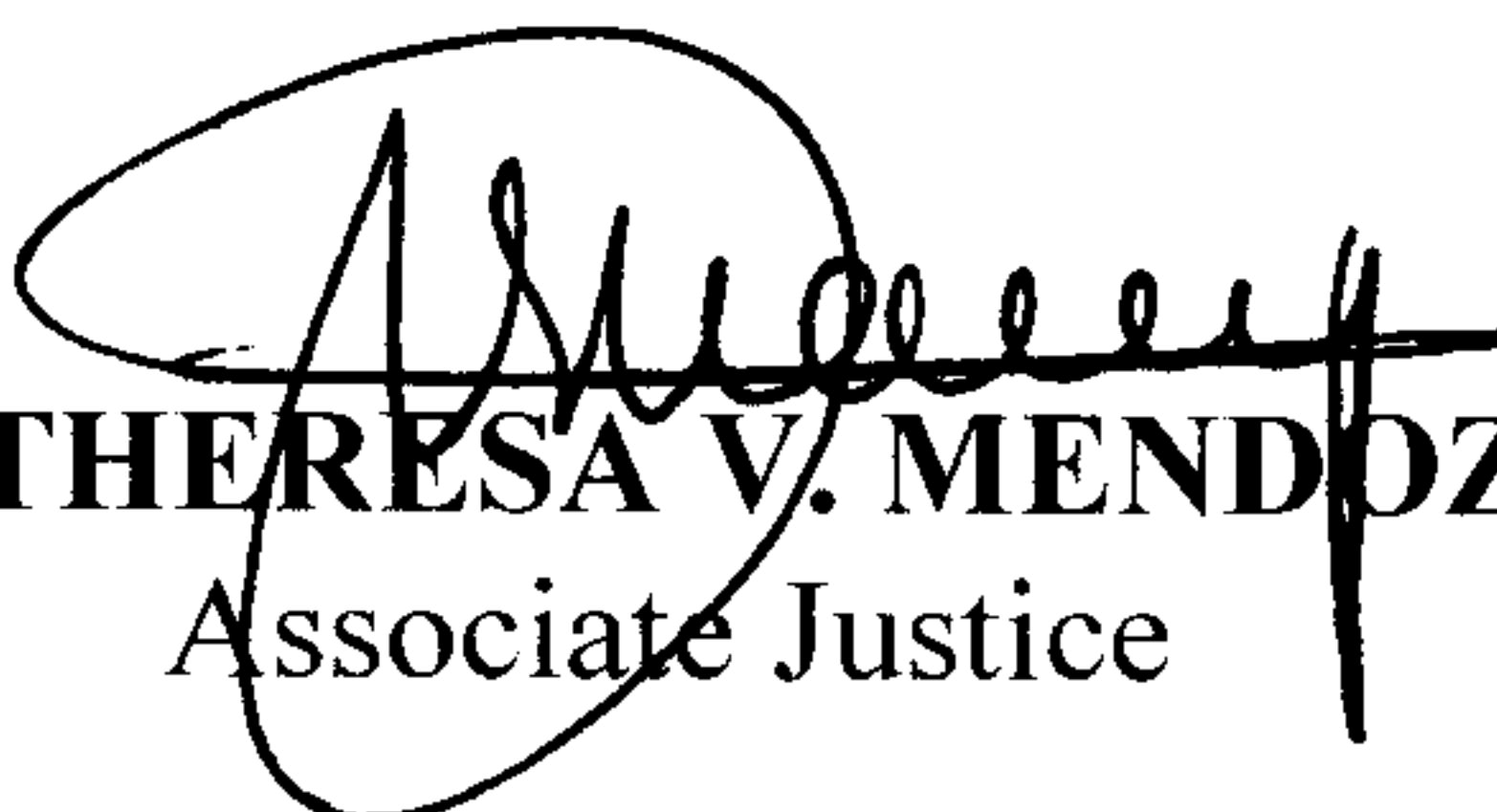
WHEREFORE, in the light of all the foregoing, the *Omnibus Motion for Dismissal of the Instant Case for Violation of Movant's Constitutional Rights to Due Process and Speedy Disposition of the Cases, Motion for Judicial Determination of Probable Cause and the Motion to Reduce Bail*



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Ad Cautelam and Urgent Prayer to Defer Further Proceedings and the Issuance of Warrants of Arrest dated January 23, 2017 filed by accused **Eduardo B. Lecciones, JR.** are hereby **DENIED**.

Accordingly, let a warrant of arrest be issued against accused **Eduardo B. Lecciones**, there being a finding of probable cause against him.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Chairperson


REYNALDO P. CRUZ
Associate Justice